

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

OMAR DALE,

Petitioner,

Case # 18-CV-6937-FPG  
SCHEDULING ORDER

v.

MATTHEW WHITTAKER, KIRSTJEN  
NIELSEN, THOMAS FEELEY, & JEFFREY  
SEARLS,

Respondents.

---

Pro se Petitioner Omar Dale is a civil immigration detainee currently held at the Buffalo Federal Detention Facility. Subject to a final order of removal, Petitioner claims that he has been in U.S. Immigration and Customs Enforcement custody beyond the 90-day removal period and is being detained in violation of the Constitution. *See generally* 8 U.S.C. § 1231(a)(1) (Attorney General, succeeded by the Secretary of Homeland Security for this purpose, must remove alien within 90 days of final order of removal), (a)(6) (“An alien ordered removed . . . may be detained beyond the [90-day] removal period . . .”); *Zadvydas v. Davis*, 533 U.S. 678, 700-01 (2001) (presumptive limit to reasonable duration of detention under § 1231(a)(6) is six months; after six months, “once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the [g]overnment must respond with evidence sufficient to rebut that showing”). Petitioner seeks relief under 28 U.S.C. § 2241 and paid the \$5.00 filing fee. ECF No. 1.

**ORDER**

Within 45 days of the date of this Order, Respondents must file and serve an answer responding to the allegations in the Petition. Respondents must also file and serve a memorandum

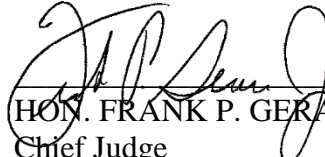
of law addressing each of the issues raised in the Petition with citations to supporting authority and applicable sections of the Immigration and Nationality Act. Instead of an answer, Respondents may file a motion to dismiss the Petition with appropriate exhibits demonstrating that an answer to the Petition is unnecessary. Petitioner will have 25 days after he receives Respondents' answer or motion to dismiss to file a written response.

The Clerk of Court will serve a copy of the Petition and this Order via a Notice of Electronic Filing to the United States Attorney's Office, Western District of New York, at USANYW-Immigration-Habeas@usdoj.gov.

Petitioner must forward a copy of all future papers and correspondence to the attorney appearing for Respondents.

IT IS SO ORDERED.

Dated: January 2, 2019  
Rochester, New York

  
\_\_\_\_\_  
HON. FRANK P. GERACI, JR.  
Chief Judge  
United States District Court